From:
Sent: Friday, March 27, 2020 7:37 AM
To:

Subject: RE: private nonprofit definition

A private nonprofit is just a plain ole American nonprofit. We use this language to distinguish nonprofits operated by the government, such as a school, clinic (public nonprofits) versus an art museum and nursing home (private nonprofit). In other types of disaster declarations, FEMA helps "public nonprofits" so the regulations use this phrase. I wish I could claw back all of my materials and just say nonprofits, but I have years and years of saying private nonprofits. Blame it on the regs. It was not meant to be confusing.

Only certain nonprofit organizations (PNPs) are eligible. If they provide critical services, such as education, utility, emergency or medical, they can apply directly to FEMA. Those that provide non-critical, essential services to the community must first apply for a low-interest loan from the U.S. Small Business Administration (SBA). FEMA may pay for all eligible emergency work and the permanent work not covered by an SBA disaster loan.

Essential service providers include:

 *   Child care centers;
 *   Libraries, museums and zoos;
 *   Community centers;
 *   Disability advocacy and service providers;
 *   Homeless shelters and rehabilitation facilities;
 *   Social and human services organizations for children, youth and adults;
 *   Senior citizen centers; and
 *   Houses of worship.

For more information about eligible essential and critical service providers, reference FEMA's Public Assistance Program and Policy Guide on fema.gov<https://gcc01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.fema.gov%2Fmedia-library-data%2F1525468328389-4a038bbef9081cd7dfe7538e7751aa9c%2FPAPPG_3.1_508_FINAL_5-4-2018.pdf&data=02%7C01%7Cjacqueline.merritt%40sba.gov%7Cf09fdb5da94f44cb422e08d7d241e40e%7C3c89fd8a7f684667aa1541ebf2208961%7C1%7C0%7C637209053117872644&sdata=B5PyRzvx%2FSf38wk%2BMUigJckp2Ulb9RGOMVXs22yxCM4%3D&reserved=0>.

(See as follows)

D. Private Nonprofit Organizations

Only certain PNPs are eligible Applicants. To be an eligible PNP Applicant, the PNP must show that it has:

- A current ruling letter from the U.S. Internal Revenue Service granting tax exemption under sections 501(c), (d), or (e) of the Internal Revenue Code of 1954; or

Figure 6. PNP Eligibility

To be eligible, a PNP must own or operate a facility that provides an eligible service.

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[56] Stafford Act § 102(6), 42 U.S.C. § 5122; 44 CFR §§ 206.201(i) and 206.222(c); and 2 CFR § 200.54.

[57] Stafford Act § 102(8), 42 U.S.C. § 5122; 44 CFR §§ 206.2(a)(16) and 206.222(a); and 2 CFR § 200.64.

[58] Stafford Act § 102(8)(c), 42 U.S.C. § 5122, and 44 CFR § 206.2(a)(16)(iii).

- Documentation from the State substantiating it is a non-revenue producing, nonprofit entity organized or doing business under State law.[59]

Additionally, as shown in Figure 6, prior to determining whether the PNP is eligible, FEMA must first determine whether the PNP owns or operates an eligible facility.[60] For PNPs, an eligible facility is one that provides an eligible service as listed below:

- A facility that provides a critical service, which is defined as education, utility, emergency, or medical (see Table 1);[61] or
- A facility that provides a non-critical, but essential social service AND provides those services to the general public (see Table 2).[62] PNP facilities generally meet the requirement of serving the general public if ALL of the following conditions are met:
  - Facility use is not limited to any of the following:
    - A certain number of individuals;
    - A defined group of individuals who have a financial interest in the facility, such as a condominium association;
    - Certain classes of individuals; or
    - An unreasonably restrictive geographical area, such as a neighborhood within a community;
  - Facility access is not prohibited with gates or other security systems; and
  - Any membership fees meet all of the following criteria:
    - Are nominal;
    - Are waived when an individual can show inability to pay the fee;
    - Are not of such magnitude to preclude use by a significant portion of the community; and
    - Do not exceed what is appropriate based on other facilities used for similar services.
- Certain types of facilities, such as senior centers, that restrict access in a manner clearly related to the nature of the facility, are still considered to provide essential social services to the general public.[63]

In cases where the facility provides multiple services, such as a community center, FEMA reviews additional items to determine the primary service that facility provides, such as:

- U.S. Internal Revenue Service documentation
- Pre-disaster charter, bylaws, and amendments
- Evidence of longstanding, routine (day-to-day) use (e.g., a calendar of activities)

Facilities established or primarily used for political, athletic, recreational, vocational, or academic training, conferences, or similar activities are not eligible (see Table 3).

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[59] 44 CFR § 206.221(f).
[60] 44 CFR § 206.222(b).
[61] Stafford Act § 406(a)(3)(B), 42 U.S.C. § 5172, and 44 CFR § 206.221(e).
[62] 44 CFR § 206.221(e)(7).
[63] As amended by the Bipartisan Budget Act of 2018, Stafford Act sections 102(11)(B) and 406(a)(3)(C) make clear that an organization operating houses of worship that limits leadership or membership to persons who share a religious faith or practice still provides essential social services to the general public.

Table 1. PNP Eligible Critical Services

PNP ELIGIBLE CRITICAL SERVICES

EDUCATION

- Primary or secondary education as determined under State law and provided in a day or residential school, including parochial schools, OR
- Higher-education institutions that meet all of the following criteria:
  - Admit students or persons having a high school diploma or equivalent;
  - Are legally authorized to provide education beyond a secondary level;
  - Award a bachelor's degree or a 2-year degree that is acceptable as full credit toward a bachelor's degree or provides at least a 1-year training program to prepare students for gainful employment in a recognized occupation; and
  - Are accredited by a nationally recognized agency or association (as determined by the Secretary of Education).
- Educational facilities that meet the above criteria are eligible without regard to their religious character or use for religious instruction

MEDICAL

- Emergency medical care (diagnosis or treatment of mental or physical injury or disease) provided in:
  - Clinics
  - Facilities that provide in-patient care for convalescent or chronic disease patients
  - Hospices and nursing homes
  - Hospitals and related facilities, including:
    - Central service facilities operated in connection with hospitals
    - Extended-care facilities
    - Facilities related to programs for home-health services
    - Laboratories
    - Self-care units
    - Storage, administration, and record areas
  - Long-term care facilities
  - Outpatient facilities
  - Rehabilitation centers that provide medical care

UTILITY

- Communications transmission and switching, and distribution of telecommunications traffic
- Electric power generation, transmission, and distribution.
- Irrigation to provide water for drinking water supply, fire suppression, or electricity generation
- Sewer and wastewater collection, transmission, and treatment
- Water treatment, transmission, and distribution by a water company supplying municipal water

EMERGENCY SERVICES

- Ambulance
- Fire protection
- Rescue

Administrative and support buildings essential to the operation of PNP critical services are eligible facilities.

Table 2. PNP Eligible Non-critical, Essential Social-Type Services

PNP ELIGIBLE NON CRITICAL, ESSENTIAL SOCIAL TYPE SERVICES

Community centers established and primarily used for the purpose of offering the following services (or similar) to the community at large:

- Art services authorized by a State, Territorial, Tribal, or local government, including, but not limited to:
  - Arts administration
  - Art classes
  - Management of public arts festivals
  - Performing arts classes
- Educational enrichment activities that are not vocational, academic, or professional training; examples include hobby or at-home pursuits, such as:
  - Car care
  - Ceramics
  - Gardening
  - Personal financial and tax planning
  - Sewing
  - Stamp and coin collecting
- Multi-purpose arts programming
- Senior citizen projects, rehabilitation programs, community clean-up projects, blood drives, local government meetings, and similar activities
- Services and activities intended to serve a specific group of individuals (e.g., women, African Americans, or teenagers) provided the facility is otherwise available to the public on a non-discriminatory basis
- Social activities to pursue items of mutual interest or concern, such as:
  - Community board meetings
  - Neighborhood barbecues
  - Various social functions of community groups
  - Youth and senior citizen group meetings
- Youth and senior citizen group meetings
- Activities of community centers that serve the general public

Facilities that do not provide medical care, but do provide:

- Alcohol and drug treatment
- Assisted living
- Custodial care, even if the facility is not open to the general public (including essential administration and support facilities)
- Rehabilitation

- Child care
- Day care for individuals with disabilities or access and functional needs (for example, those with Alzheimer's disease, autism, muscular dystrophy)
- Food assistance programs
- Health and safety services
- Homeless shelters
- Houses of worship
- Libraries
- Low-income housing (as defined by Federal, State, Territorial, Tribal, or local law or regulation)
- Museums:
  - Constructed, manufactured, or converted with a primary purpose of preserving and exhibiting a documented collection of artistic, historic, scientific, or other objects
  - Buildings, associated facilities, fixed facilities, and equipment primarily used for the preservation or exhibition of the collection, including:
    - Permanent infrastructure, such as walkways and driveways of outdoor museum-type exhibition areas
    - Historic buildings, such as barns and other outbuildings, intended for the preservation and exhibition of historical artifacts within a defined area
    - Permanent facilities and equipment that are part of arboretums and botanical gardens
    - Infrastructure, such as utilities, and administrative facilities necessary for support
  - The grounds at museums and historic sites are not eligible.
  - Open natural areas/features or entities that promote the preservation/conservation of such areas are not eligible.
- Residential and other services for battered spouses
- Residential services for individuals with disabilities
- Senior citizen centers
- Shelter workshops that create products using the skills of individuals with disabilities
- Zoos
- Performing arts centers with a primary purpose of producing, facilitating, or presenting live performances, including:
  - Construction of production materials
  - Creation of artistic works or productions
  - Design
  - Professional training
  - Public education
  - Rehearsals
- Public broadcasting that monitors, receives, and distributes communication from the Emergency Alert System

With the exception of custodial care facilities and museums, administrative and support buildings essential to the operation of PNP non-critical services are NOT eligible facilities.

Table 3. PNP Ineligible Services

PNP INELIGIBLE SERVICES	
COMMUNITY CENTER SERVICES • Training individuals to pursue the same activities as full-time paying careers (for example, vocational, academic, or professional training) • Meetings or activities for only a brief period, or at irregular intervals	**OTHER COMMUNITY SERVICES** • Advocacy or lobbying groups not directly providing health services • Cemeteries • Conferences • Day care services not included in previous table of eligible services • Irrigation solely for agricultural purposes[**] • Job counseling
EDUCATION • Athletic, vocational, academic training, or similar activities • Political education	• Property owner associations with facilities such as roads and recreational facilities (except those facilities that could be classified as utilities or emergency facilities) • Public housing, other than low-income housing • Recreation • Parking not in direct support of eligible facility